

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

ANTHONY C. HUNTER,)	
)	
Petitioner,)	
v.)	Civil Action No. 11-3336-CV-S-RED-H
JUAN D. CASTILLO, Warden,)	
United States Medical Center,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Petitioner, an inmate confined in the United States Medical Center for Federal Prisoners, petitions this Court for a writ of habeas corpus in which he challenges actions of the Bureau of Prisons ["BOP"]. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because petitioner has failed to state a constitutional violation, it will be recommended that he be denied leave to proceed in forma pauperis.

After a Show Cause Order was entered, the United States filed its response. Subsequently, counsel for petitioner filed a motion to withdraw. Petitioner filed a pro se traverse in which he reasserted the allegations of his original petition.

As grounds for relief in habeas corpus, petitioner alleges that he has been wrongfully denied conditional release and that he is being illegally detained at the Medical Center. He also asserts that respondent has impeded his ability to obtain Social Security benefits by filing his claim incorrectly.

It is the government's response that petitioner has been recommended for conditional release pursuant to 18 U.S.C. § 4246, and that efforts are ongoing to secure state placement for him in his home state of Virginia. To date, suitable state placement has not been found, although the Social Work Department at the Medical Center continues to work with petitioner's United States Probation

Officer in Norfolk, Virginia. At this time, no state placement is available that meets the Risk Assessment Panel's recommendation for conditional release. Accordingly, petitioner has failed to state a constitutional violation on this issue.

In terms of his complaints regarding Social Security benefits, the record indicates that petitioner filed for benefits, with the assistance of staff at the Medical Center. When his claim was denied, he failed to appeal the Commissioner's decision, despite being advised by the Medical Center to do so. Respondent also indicates that petitioner is currently receiving assistance in reapplying for benefits.

Having fully reviewed the record, the Court finds that petitioner has failed to state a constitutional violation for which habeas corpus relief is available. In this case, the record indicates that staff at the Medical Center are working in conjunction with the appropriate authorities in Virginia in an effort to obtain adequate and available state placement for him. This process is ongoing. Additionally, the record does not support petitioner's claim that he was denied Social Security benefits due to any action by respondent. To the contrary, the record indicates that petitioner is receiving assistance on that matter from Medical Center staff. Therefore, the Court finds that petitioner has failed to state a constitutional violation, and that it must be recommended that the petition for habeas corpus relief be dismissed without prejudice.

Counsel for the petitioner has filed a Motion to Withdraw. Because there are no issues presented for which relief is appropriate, the motion is granted.¹

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 22 of the United States District Court for the Western District of Missouri,

¹ Petitioner has 14 days to file exceptions to the Report and Recommendation of the United States Magistrate Judge.

RECOMMENDED that petitioner be denied leave to proceed in forma pauperis, and that the petition herein for a writ of habeas corpus be dismissed without prejudice.

/s/ James C. England
JAMES C. ENGLAND
UNITED STATES MAGISTRATE JUDGE

Date: 1/4/12